

ESSAYS

ON

POLITICAL SUBJECTS.

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A
SHORT VIEW
OF THE
Present Great Question.

L O N D O N:

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MDCCLXXXIX.

A

SHORT VIEW

OF THE

Present Great Question.

L O N D O N

Printed by J. DODD, 15, Abchurch Lane, London.

ROBERT, BICCARLEY.

MCCCXXXV.

THIS tract was published in the year 1788, when the public expected a Regent, but did not know who that Regent would be. The conclusions of reason pointed to the Prince of Wales, while the views of ambition admitted of other prospects.

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the author expected a Regent, but did not know
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the paper is the Prince of Wales, while the
author was in the land of other people.

A SHORT VIEW, &c.

THE question of Regency has for some time past engaged the attention of the whole people of England. History has been investigated, precedents have been adduced, and principles have been adopted; but history perplexes us, precedents contradict one another, and principles cannot be followed.

What are we to do in this difficulty? In constitutional questions, the Constitution alone can be our guide. That is our oracle. Let us consult it.

The

The Constitution is, according to Lord Bolingbroke, *the assemblage of laws, institutions, and customs, derived from certain fixed principles of reason, directed to certain fixed objects of public good, that compose the general system, according to which the community hath agreed to be governed* *.

The English form of government consists of three estates, King, Lords, and Commons. If the Constitution be the assemblage of laws, institutions, and customs, by which we have agreed to be governed, the very chief and principal in the system must regulate the mutual relation of the three estates, since the three

* This definition comprehends too much. As it includes, however, the essential parts of the Constitution, it answers the present purpose.

estates represent the whole PEOPLE OF ENGLAND. Whatever then is the law of these estates, is the law of the Constitution. Let us consider them.

OF THE KING.

It is a maxim in law, that the King never dies. He is a corporation. The Throne is never vacant. Immediately upon the decease of a King, his royal dignity vests, *ipso facto*, in the heir of the crown; and to mark that he never does die, such decease is termed a demise, which signifies a transfer of property. And the King was made a corporation in order to be put upon a level with the other two estates. For as House of Commons replaces House of Commons, and House of Lords

Lords succeeds House of Lords, so it was necessary that one King should succeed another. As the King was sole, it was necessary to fortify him against the aggregate estates, and bar them from the possibility of ever creating him.

This estate, therefore, is *self-creative*.

OF THE LORDS.

The same features of independence distinguish all the estates. The King cannot elect the Commons, nor the Commons appoint the King; because if either did, the other would become dependent. But the King can create peers, because they are hereditary and consequently independent.

This

This estate, therefore, is not *self-creative* ;
it is *permanent*.

OF THE COMMONS.

As the King demises once in twenty or thirty years, so the Commons are dissolved once in six or seven, and revive by the election of their own order. And their dissolution corresponds with the King's demise ; for though it is not occasioned by the mortality of man, it is an analogous event in the estate.

This estate, therefore, is *self-creative*.

These estates are IMMORTAL. The King is a corporation, the Lords are hereditary, and the Commons revive by election.

C

These

These estates are CO-EFFICIENT. No two of them can make a law without the consent of the third.

These estates are INDEPENDENT. No two of them can create a third; for they are either self-creative or permanent.

The law of these estates then is, that they are IMMORTAL, CO-EFFICIENT, and INDEPENDENT. But the law of these estates is the law of the Constitution; therefore that these estates are IMMORTAL, CO-EFFICIENT, and INDEPENDENT, is the law of the Constitution.

And it is reasonable to suppose that it should be so. The principle of every form of government, should be to preserve itself. Now, if any two of these estates could make
a law

a law without the consent of the third, or create the third, it is impossible the Constitution could last long; for they would abolish or annihilate that third, in order to acquire power. It is therefore very wisely provided, as far as human provision can go, that the estates should be mutually and eternally independent.

After all the law could do to fortify the King against the Lords and Commons, he remained sole, and they aggregate. In his natural capacity, therefore, he was subject to many accidents from which they were exempt. He might be absent in person;—though, in law, he could not be a minor, he might be too young to govern;—and though in law he was held of sound understanding, he might become infirm in his mind. In such cases of absence of person,

C 2

infancy,

infancy, or infirmity of mind, does he demise?

A demise is the change of the Sovereign. As it implies that one Sovereign ceases to reign, and gives way to another, it should be regulated by the capacity to govern. On this principle, idiots and lunatics are frequently excluded from the succession by special acts: for as they are not able, so they are not allowed to govern at all.

But from whatever cause the incapacity proceed, that incapacity ought to be permanent, before it can point at a demise. The Sovereign, therefore, could never any wise demise by infancy, because he will one day be qualified to govern. Far less by absence of person; for if he leave the kingdom, he will speedily return; except he

he withdraw himself from the throne, as did James the Second, and demise, by leaving it vacant. Respecting infirmity of mind, there is greater difficulty; because, if that infirmity be declared incurable, there is the same reason to set aside the reigning Sovereign, as to exclude an incapable person by a special bill. But that is not law, as the law stands, nor can it be, till an act shall declare, that the infirmity being established by proper testimony, incurable, the Crown devolves upon the next heir. And it will be for the wisdom of Parliament to determine, whether any King should be dispossessed of the Crown, after having once succeeded to it; for physicians are fallible; and if the late Sovereign should recover, to deprive a King of his Crown, and dispossess a Regent of his authority, are two different things.

In

In the several cases, however, of absence of person, infancy, and infirmity of mind, the Sovereign is equally incapable *pro tempore*. What is to be done? The King cannot demise—The kingdom must be governed—The Crown cannot leave the King's head—The Constitution demands a substitute. The consequence is inevitable. The first estate dissolves into two parts; the Crown, and the Sovereign authority. The Crown remains upon the King's head; the Sovereign authority vests in a Regent.

But who is that Regent? Have the Houses of Parliament the right of appointing him?—This question must be resolved by another.—What is a Regent?

A Re-

A Regent is the representative of the first estate. He should possess the authority of that estate; he should act in every capacity of that estate; and he should stand in the same relation to the other estates.

It is impossible to conceive how the Houses of Parliament can have the right of appointing this officer. He is the royal estate—the Sovereign authority. No two estates can create a third. Or will they touch the Sceptre, and not the Crown? Will they take the essence, and spare the form? Will they rob the substance, and leave the shell of the building?—No.—The estates are eternally distinct—eternally independent—separated from one another by an immortal and insurmountable barrier.

The

The Constitution is above law. The foundation is stronger than the superstructure. If an Act of Parliament passed, enabling the House of Commons to sit for ever, and (to use the language of Caligula), beheading the whole people at one blow, would, or ought that law to be acquiesced in? If it ought, this free state is a detestable tyranny; if it ought not, the Constitution is above law. But if a single act forbade the Houses of Parliament to appoint a Regent, they would be barred from doing it. How much more are they barred now, when a far greater power, a power above all law, all things, infinite and absolute, stares them in the face, and defies them?

So far is the right of appointing founded in the Constitution. Let us resort to single laws.

Does

Does any Act of Parliament exist, empowering the two Houses to appoint a Regent?—No.—Can the two Houses, of their own authority, make an Act of Parliament, conferring such a power?—No.—Can they assume the power, without an Act of Parliament?

A Regent is appointed. The subject refuses to acknowledge his authority. He is asked, Why? He replies, that he is not appointed by law. He is told, that it is by custom of Parliament. He answers, that it is not by custom of the Constitution.

But if a statute did exist, constituting the two Houses supreme, the validity of that statute ought to be disputed.

The common law comes next. Lord Coke declares, in express terms, the office of Regent unknown to the common law.

Where then is the sanction, authorizing the Houses of Parliament to claim such a right?

The Houses of Parliament never possessed the right of appointing a Regent; they assumed the power. All power assumed, without the authority of law, is usurped. Why was the power which Charles arrogated of levying ship-money an usurpation? Because no law authorised him so to do. Why was the power which the Houses of Parliament assumed, of appointing a Regent, an usurpation? Because no law gave them such a power. It was as much an usurpation in one case, as in the other;

other; and the subject had an equal title to resist. Man gives up his natural liberty, to be governed by law, and when he is governed otherwise, he has a right to resume it. Whoever asserts the contrary, maintains the doctrine of passive obedience and non-resistance.

No resistance, however, was made. A citizen sinks speculative right in the welfare of the community. The nation was in distress, and happy to be relieved, while the Houses naming a Regent, was the best way to avoid confusion. But the Houses could not appoint in their Parliamentary capacity; they named as the leading men in the nation. They were driven to interfere by the same necessity which compelled the Earl of Pembroke. In very troublesome times, he assumed the Regency of

Henry the Third. And how did they interfere? They appointed Governors and Guardians, fettered with Councils, &c. proclaiming to the nation, in every possible way, that they were enabling it to be governed, not appointing who was to rule it.

It is then manifest, that the Houses of Parliament have *not* the right of appointing a Regent. Who *can* appoint him? No power in the universe. The royal estate dissolves. The Crown continues on the King's head; the Sovereign authority passes from him. Where *can* it go? The Houses of Parliament can appoint no one man in the kingdom to receive it. It takes the course of descent, and vests in the person of the HEIR APPARENT, or PRESUMPTIVE, to the CROWN.

Here

Here then are two co-efficient persons—the one wearing the Crown, the other wielding the Sceptre; the one reigning, the other ruling; equally worthy in their blood, equally illustrious in their descent, equally royal in their race, making and composing the one estate—KING.

And the principle, that in cases of incapacity, the royal estate dissolves, holds true, of all the incapacities it can suffer. In absence of person, in infancy, in infirmity of mind. If the Sovereign be incapable of governing, does it import the nation, from what cause the incapacity arise? Absence of body and mind, are equivalent; the necessity is parallel; his place must be supplied; his authority must pass from him; the estate must dissolve.

In

In the case of absence of person, when the Sovereign prepares to leave the kingdom, he delegates the royal authority to whomsoever he shall please to depute. And he is rather suffered to depute, because his absence will be momentary, than authorized to appoint. In cases of infancy, or infirmity of mind, that authority vests in the Heir Apparent, or Presumptive, and travels through the Heirs to the Crown, before Governors can be appointed to the infant or infirm King. The Heirs have a right; the Governors have none; and the royal estate ought to be supplied from its own blood.

Nor let it be objected to this rule of succession, that Governors must sometimes be appointed. That is not the fault of the rule, it is the effect of necessity; and
whoever

whoever rejects a principle because it cannot always be followed, declares, that because he cannot be as right as he would, he will be as wrong as he can.

Let it be supposed that the Houses appointed where an Heir Apparent actually existed. If they passed by * *him*, they would, in all probability, appoint † several Regents; because, they would say, the Sovereign authority is too great for any one common subject to possess. And here it would happen, as it always does, when men act in contradiction to obvious principles. One absurdity would drive them to another. The Constitution demands a

* At this time it was not known whether the Prince of Wales would be Regent or not.

† A joint Regency was apprehended.

sole

sole executive power. As they sinned against it, first in appointing Regents at all, so they would sin again in appointing several.

Nor would this be all. A joint Regency would violate the spirit as much as it would contradict the letter of the Constitution. *The King can do no wrong*—Ministers are responsible. If measures are condemned, they are punished. This expedient was devised to save the Sovereign from the necessity of defending his conduct, and of coming to a contest with the nation; to preserve the dignity of the crown, and guard the liberties of the people. But what would be the consequence if regents were, as they would be, Ministers? How would the dignity of the Crown be preserved? It would be degraded,

graded, prostituted and insulted every day in the animosity of debate. How would the liberties of the people be guarded? The Regent Ministers would strain every muscle of the executive power to maintain themselves in their post, and every change of administration would be a convulsion in the government.

After all, if we should trample on the Constitution, what should we gain by the outrage? One advantage of a monarchy, and a great one, is, that the Sovereign, removed at a distance from the people, feels not the influence of their passions. He partakes not their quarrels, he has no pique to indulge, no resentment to gratify. Exalted to an immense height above his subjects, he contemplates them as from a

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planet,

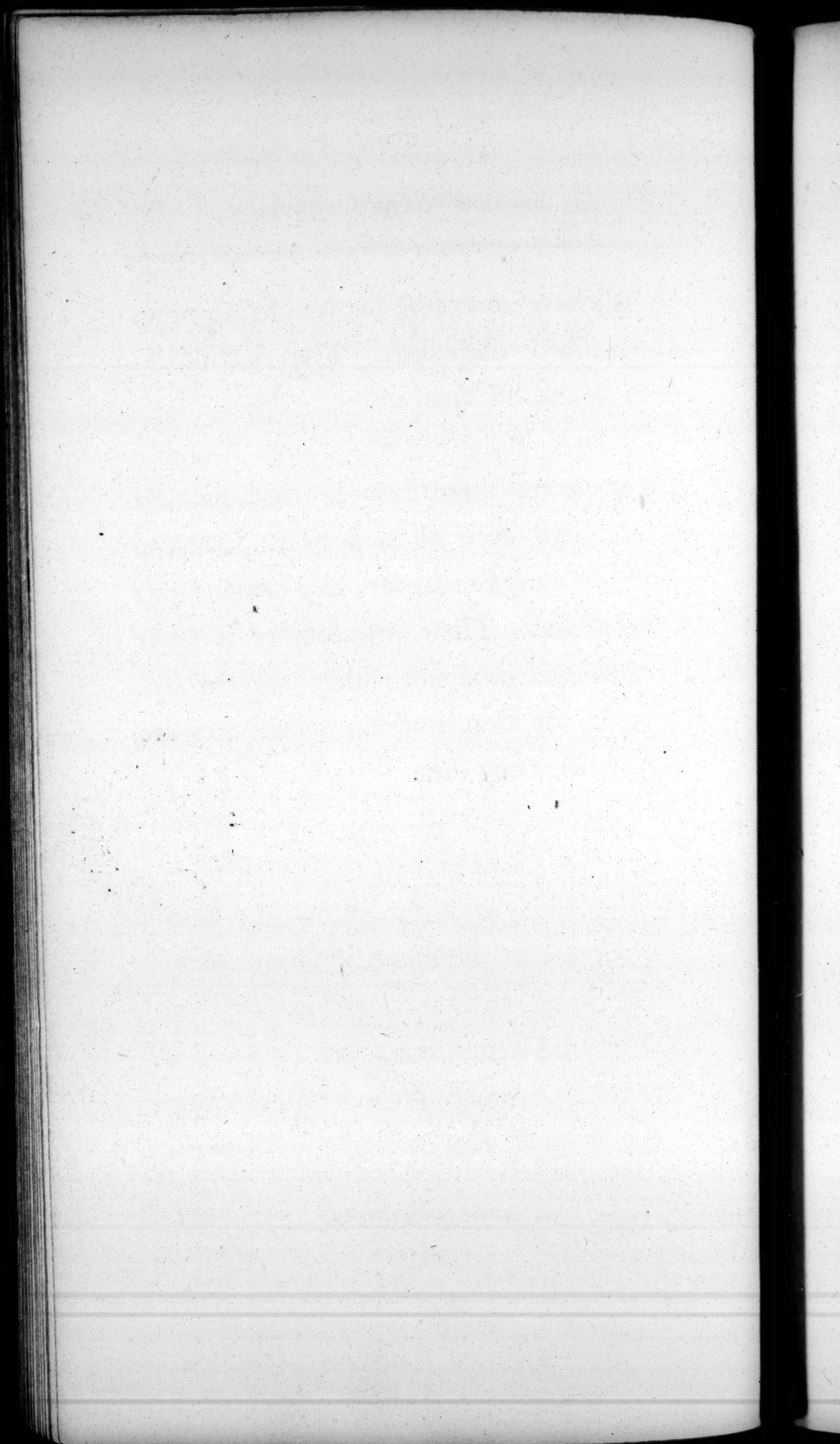
planet, and sees them move without discerning their motions. Would this be the case with Regent Ministers?—No.—Where they were resisted, they would hate; where they hated, they would persecute. Instead of surveying the contest from afar, they would dart into the hottest of the combat, and we should see all the diabolical passions of man, instead of being blunted in their operation, exasperated into ten-fold fury.

This is an awful moment; it is the centenary of the Revolution. The patriotism of all should be renewed. Zeal should become enthusiasm. The people should love the Constitution with ten-fold affection, and Members of Parliament should devote themselves with ten-fold piety to preserve it.

it. We have no excuse for wandering now. Despotism is dispelled. The sun of liberty shines full upon us.

Let power then flow in the channels which have been allotted to it. Let the estates be CO-EFFICIENT, INDEPENDENT, IMMORTAL. Their immortality is built on their independence; they are the arteries of the Constitution: when they are pierced, the body dies.

FINIS.



A
SHORT ESSAY
ON
WHIGS
AND
TORIES



L O N D O N:
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TABLE 1

TABLE 2

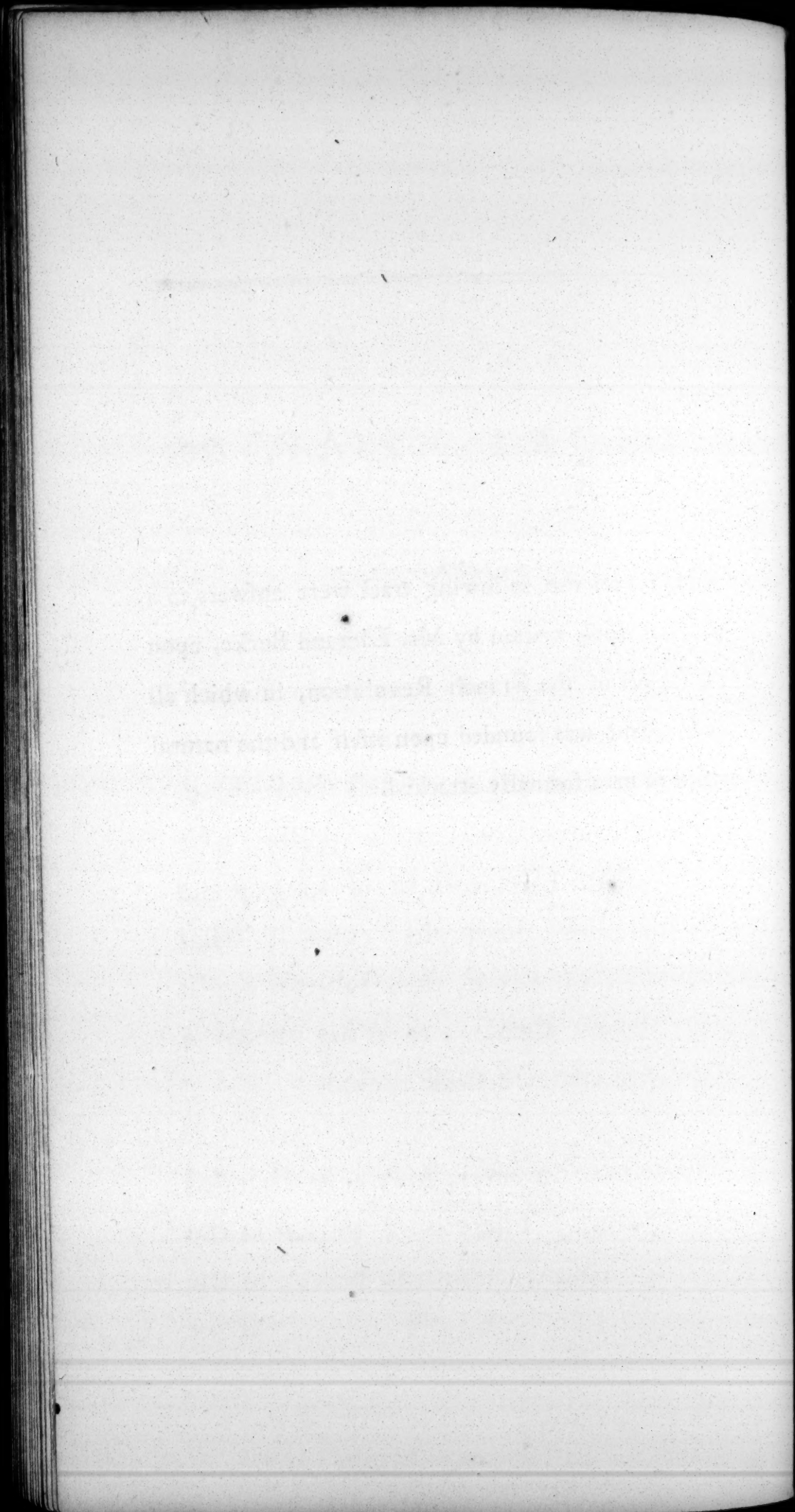
TABLE 3

TABLE 4

TABLE 5

TABLE 6

THIS and the following tract were answers to a political work written by Mr. Edmund Burke, upon the subject of the French Revolution, in which all government was founded upon itself and the natural rights of man formally attacked.



A SHORT ESSAY, &c.

THERE are no terms in the English language more common than Whig and Tory, and yet none less understood. A Tory meant formerly a person who maintained the divine right of kings; and held, that let monarchs commit what enormities they would, their subjects ought not to depose them. A Whig meant a person who opposed these notions.

The terms, however, have now changed their meaning. There is no person in the present age absurd enough to believe in the

F

divine

divine right of kings, and consequently no occasion for that doctrine being opposed. It is now exploded. Exploded, however, as it is, it has left dregs behind it; and though none are absurd enough to maintain divine right, there are some foolish enough to favour arbitrary power. A Tory, therefore, now means one who favours such power, and a Whig one who supports the natural rights of man.

Many contend, that there are no such rights. The worst men affect to despise them, and the best are too apt to treat them as remote.—But they are not remote—they are as immediate as the air we breathe, and upon a due sense of them, every thing that is free, just, or noble is founded.

If

If these rights be so valuable, and notwithstanding are so little known, would it not be proper to examine them? To explain what is difficult, to open what is involved, to elucidate what is obscure—In short, to bring this subject home to men's bosoms, and to make what is clearly conceived by few, felt by all?

The best way to discover the natural rights of man, is to refer to him in a state of nature. There certainly was a time when he existed in that state, unless we suppose that government dropped upon him from the clouds. When he was, or how long he remained in it, we cannot tell; but common sense compels us to conclude, that in that state he must have been some time or another.

If, then, all men were once in a state of nature, I will ask, what right any man had in such a state to controul another? If any had such a right, they must have founded it upon some charter derived from heaven, authorizing them to govern the rest of the world. We do not, however, know of any such charter. We have, indeed, heard of a certain oil which the Jews poured upon the heads of their kings, and to which they ascribed the virtue of conferring an eternal right to govern; but this notion is considered as Jewish, and entirely exploded. That we may, however, finish this part of the subject, to suppose such a charter as we talk of, or to maintain the virtues of holy oil, is to revive the ideas of divine right, and the Lord's anointed, with the champions of which we do not presume to contend.

But

But those who dispute the natural rights of man, wave the doctrine of divine right—They do not pretend to say that any one ever received a right to govern from heaven, but they talk of a certain subordination in society. What that subordination is, we shall see afterwards; in the mean time let us wave with them, the idea of divine right, and return to the old ground.

If no man had a right to controul another in a state of nature, every man had a right to be free. Men, however, were not perfect beings; they had vices and passions, and these vices and passions produced mischievous effects in society. The strong oppressed the weak—As every man was liable to become the weaker, and consequently to be oppressed in his turn, all began to consider how they might provide
for

for their security. They devised the expedient of chusing some one person or persons to rule them, whose power they should all support, and whose power so supported should be sufficient to restrain oppression. In other words they thought of government.

Now as all were born free, before any one man could be entitled to rule the rest, they must have given him a right so to do. The question is, how that right was given. Did they confer it simply and absolutely without any qualification or condition whatsoever? If so, they must have talked a very strange language indeed—they must have said to their rulers——“ You have
“ no right to govern us, nevertheless we
“ give you that right, in order that you
“ may protect us ; if, however, you should
“ abuse

“ abuse your power, and instead of protecting us, become yourself our greatest oppressor, we will not depose you, therefore do as you please.” I trust this language is too ridiculous to be listened to for a moment. There is then but one conclusion upon the subject, viz. “ *that power was given on condition that it should not be abused, and that when it is, it may be recalled.*”

This is the original contract * of which we have heard so much, the great agreement between the governing and the governed. But granting that there had been no such agreement, and that the people had

* By *contract* is only meant, a mutual understanding that power should not be abused—the distribution of it may be altered at any time by the people.

given

given away their power ever so simply, and ever so absolutely, can we suppose that they had a right to enslave their posterity? That they could impose an eternal yoke upon their necks, and submit them unlimitedly to their rulers? What a strange creature is man! These advocates for power would hesitate to inclose a common for fear of injuring posterity, and yet would they surrender at once all the rights of mankind, in settling the property of the world!

But then say our adversaries, who are to be the judges, when power is abused—the people?—Certainly—Who ought to be the judges—the oppressors or the oppressed? If our rulers were to determine when they wronged us, I am afraid we could expect least candour from them where we required it most—They would hardly be brought
to

to acknowledge their errors. The Roman Emperors themselves, after all the blood they shed, and all the enormities they committed, never called upon their subjects to depose them.

And the people will be the judges. They have a right to recal power constantly residing in them, which they will assert as often as they see occasion. Those, therefore, mistake the matter much, who consider the Revolution as an accident, or a deviation from general principles—It was no more an accident than an eclipse—It was an effect produced by rational causes—We need not recommend it as an example—Whenever the liberties of mankind are confined in the same manner, they will again burst with the same explosion.

Nor let it be pretended that the people will resist on trivial occasions. From various causes they are averse to revolutions, and the experience of mankind justifies us in asserting that they generally bear too much.

The opposers of natural rights will please to observe, that we have now found one—a natural, inherent, eternal, unalienable right to recal power when abused. Whoever denies it is guilty of high treason; for the right of the people to expel James the second, is the right of his present Majesty to the throne.

This is the famous right that formerly divided the kingdom into Whigs and Tories—This is the famous right that bred all the disputes about divine right, passive obedience, and non-resistance. The disputes have
subsid

subsided with the causes that gave rise to them, but the right still remains.

And this right is nothing else than a general right to liberty. Liberty consists of various branches, in all or most of which it is abused, before any resistance is made by the people.

Every man thinks that he ought to be free in his person.

Every man thinks that he ought to be master of his property.

Every man thinks that he ought to be free in his opinions.

Every man thinks that he has a right to do what is not forbid by the laws.

And yet is there no law giving a man any of these freedoms. The opposers of natural right will then please to tell us upon what else they can be founded.

But the enemies of these rights would perhaps feel them, though they will not avow them. They would murmur, if they were restrained either in person, property, opinion, or general conduct.

These topics require illustration. They have been always the subjects of abuse, the great sources of oppression in civil and religious liberty.

Freedom of person is the first of natural rights. It affords a picture of liberty in its native simplicity. For this reason all savages are fond of wandering, and become
unhappy

unhappy when they are fixed down to a settled spot.

In the early ages of the world, this right was little respected. Nations made war upon one another, and when they overcame, conquest was but another name for slavery.

Who can read the story of Sesostris, who was drawn in a chariot by four captive kings, without feeling for the rights of man? Who can hear of whole nations led into captivity without indignation?

Another cause contributed to diminish personal freedom among the ancients. Most of their governments were absolute monarchies, where every thing was subject to the will of the prince. There were, it is true, democracies also, but some of the democracies

mocracies were as tyrannical as the monarchies. What could be more cruel than the subjection of the Helots at Sparta?

The same cause operated through the middle ages, and down to modern times. The governments of Europe were, in general, absolute, and consequently prejudicial to liberty.

England, during some time, followed the example of her neighbours. Her monarchs reigned in a very arbitrary manner. Men, however, asserted their liberties by degrees, and, among the rest, their personal freedom. The person of the subject is one of the great fields upon which the battles for liberty have been fought in this country.

Let us now see how this right stands in society. On leaving a state of nature, man
resigned

resigned his personal freedom along with his other rights, to be modelled for the good of the community, but it was to be modelled by certain institutions. He must, then, retain whatever is left by these institutions, and on this principle I hold, that where a man is not bound by the laws of his country, he is as free at this moment, as ever he was in a state of nature.

This position is so obvious, that it hardly admits illustration. By what can a man be bound but by laws? and if he can be bound by nothing else, must he not be as free where they do not confine him, as in any state whatever?

And it is this very thing that makes the difference between arbitrary and limited power. Arbitrary power can do what it pleases;

pleases; limited, what is allowed by the laws only.

The degree, then, of personal freedom that belongs to every man, is that which is left him by the laws of his country. Where the laws restrain him, he is bound, in all other cases he is free.

But our monarchs, during a considerable period, despised the laws, and imprisoned their subjects at discretion. Even after the darkness of the first ages was dispelled, the courts of Star Chamber, and High Commission existed. They might be called the temples of arbitrary power, where the laws never entered to protect, and the victims of royal persecution were sacrificed.

These

These were soon abolished. When power was restrained from violating the laws, its next resource was to pervert them. In the reign of Charles the Second, those who became obnoxious to the court, were imprisoned on suspicion of certain crimes, and never brought to their trial, by which means, what was intended as a security for justice, was converted into an actual punishment. The law of Habeas Corpus was then passed, by which a prisoner must either be tried within a certain time, or discharged.

Various are the laws of the same kind, which protect the person of the subject. Nor is it by laws alone that we provide for its security. We are perpetually watching our constitution, correcting abuses, and checking the excesses of power. It is but lately we lopped off *General Warrants*, a

H

green

green and unexpected sprout from the old stocks of Star Chamber and High Commission, supposed to be rotten long ago.

Personal freedom is now established in England, and the people conceive that they can be confined by no power but the laws. Sorry are we to say, that the case is different in most other countries. There the will of the sovereign is the supreme rule, and though men may define what liberty they ought to have, they can never tell what they actually possess,

Nor is our property less dear than our persons in society. The freedom of both is equally essential to liberty.

The right of property originates in occupancy. When men were in a state of nature,

ture, the only objects of possession were the birds and beasts of the field, and they became the property of the first occupant. A man was supposed to create a title to a thing, by the trouble he took to procure it.

Labour, then, was originally the title to property, and remains so to this day. All property is bought with money, which is the representative of labour. When money is given for the purchase of an estate, it is only the exchange of labour in one shape, for labour in another.

But the generality of mankind do not go so far back in their ideas, nor do they trouble themselves about the principles upon which the right of property is founded. It is enough for them that a thing is their property; they consider it as subject to their

H 2 dominion,

dominion, and hold, that no one else has any thing to do with it.

It is accordingly a maxim in politics, that no man should be taxed without his consent given either by his own voice, or by that of his representative. In this consisted the tyranny of the ancient states, who compelled the nations they conquered to pay a tribute, in the imposition of which the conquered had no vote, and in this consisted our own tyranny in attempting to tax America.

On the subject of America it was said, that many considerable places in this kingdom, which were not represented, paid taxes, such as Leeds and Manchester. These places were represented in the counties to which they belonged; and sup-
posing

posing they were not, Parliament had never taxed them exclusively, nor claimed a power of so doing: if they had, we should soon have heard of it. But the short question upon the subject is, should we have liked the Americans to have treated us, as we treated them, and it is so short a one, that it occasioned a rebellion.

Upon the same principle that we attempted to tax America, Charles the First attempted to levy Ship Money, and with the same success. The attempt was resisted. And this, perhaps, is the best criterion of natural rights, that the invasion of them always produces a rebellion.

The maxim that the people should not be taxed without their own consent, is, in truth, one of the great bulwarks of liberty:
take

take away that, and we lose every degree of security. The demands of the sovereign may increase till we are deprived of our possessions, and we may be reduced to the condition of the Turks, where the Grand Signor is sole heir to all the property in his dominions *.

How different is the situation of England? The benevolences which were formerly given to our sovereigns are now at an end, and no contributions can be levied upon the people without the consent of parliament; nor is the property of the subject less guarded in other respects, than in that of taxation. Nothing but of an act of parliament can oblige a man to part with his

* When a subject dies in Turkey the Grand Signor becomes his heir.

property in this country, nor is that power ever exerted except in cases of extreme exigency †.

Freedom of opinion is another right equally inseparable from liberty. That a citizen should be obliged to conceal his opinions, is one of the most disgraceful marks of slavery.

Such, however, is the situation of men in despotic governments. Spies are dispersed among the people, whose business it is to watch private conversation, and to report it

† As in that of the duke of Athol, who was obliged to give up the Isle of Man to government, because it afforded a retreat for smugglers, but was amply indemnified. Or in that of landholders daily, who are forced to admit highways through their grounds for the accommodation of the public.

to

to the tyrant, or his minister. Such was the practice in France, such in Venice, and such in the Asiatic governments.

In Spain they go a step farther. In other countries men are allowed to entertain their opinions, providing they do not disclose them; but in Spain these opinions are explored in order to be made a subject of crimination. The inquisition is accordingly one of the most diabolical tribunals that ever appeared in the world.

Persecution in matters of religion is equally unjust and absurd. Unjust, because every man has a right to think for himself; and absurd, because no man has his belief in his own power. Accordingly wherever it has been adopted, it has produced an effect directly contrary to what was intended.

Nothing

Nothing is so favourable to liberty, as freedom of opinion upon all subjects ; for this reason the liberty of the press has been always preserved with the most watchful jealousy in this country.

That freedom of opinion, however, is totally unknown in despotic governments, nor has it always flourished in England. Before our constitution was established on the basis upon which it now stands, proceedings were instituted in the courts of Star Chamber and High Commission, which equally invaded the latitude of discourse, the liberty of the press, and the privilege of parliament.

And now as to the right of doing what is not forbid by the laws *.

* This is natural liberty in its pure state.

I

There

There is no branch of liberty that comes more frequently in agitation than this. We hear every day of the laws being strained for the purposes of oppression, and whenever they are so strained, the freedom in question is invaded.

But the most serious breach of this right is *ex post facto laws*. What can be more unjust than to pass a law in order to punish a man for an action which was not understood to be a crime when he committed it? And yet the injustice of such laws depends entirely upon the right in question; for if a man was not entitled to act where the laws did not restrain him, there could be no injustice in punishing him for so doing.

The

The sense which mankind entertain of this liberty, appears in the effects which its invasion produces. The laws are never strained without rousing the indignation of the people, and the very name of *ex post facto laws* is sufficient to excite abhorrence. The case of Lord Strafford will be ever remembered as a monument of tyranny and oppression *. “No man is safe,” exclaimed he; “there is no lighthouse, no beacon. He runs upon the rocks, before he is aware, and founders in a moment.”

* It is well known that he was a favourite minister of Charles the First. He was condemned for “*an endeavour to subvert the fundamental laws,*” a crime which was not contained in the statute against treasons, and which was invented for the sole purpose of punishing him.

Ex post facto laws are sometimes defended, though very falsely, upon the ground of expediency. It is said, that when men become pests to society, it is for the good of the public that they should be removed, and removed they must be *.

Granting, in the first place, that any consideration ought to outweigh justice, which is by no means clear †, the good of society lies directly the other way. What is one man's case to-day, may be another's to-morrow, and it is better that the greatest villain should be immortal, than that the laws should be violated to punish him.

* This sentiment, for argument it was none, was expressed by some in the case of Lord George Gordon.

† *Fiat justitia, ruat cælum.*

What

What is it to plead expediency, but to substitute will for law? and what is it to substitute will for law, but to establish tyranny?—No—the laws are our only security, and the very moment we lose hold of them we are driven into the ocean of arbitrary power.

Such are the natural rights of man, and upon such all liberty is founded: they include all great political questions, and most of the revolutions in the world have been owing to them.

The abuse of these rights after all, is the true criterion of resistance in the people. When once they are infringed, no matter whether with law or without it, the people will resist. We can suppose laws so tyrannical,

rannical, that they would not be submitted to for a moment.

And it is these rights that form the real distinction between Whigs and Tories. It is not colour, it is not clubs, it is not even party, it is the immutable frame of a man's mind. A Whig will be always a friend to natural rights, and a Tory will always be their enemy*.

But then it will be asked, how are we to discover a Tory? By the general com-

* It must here be observed, that party has so confounded all distinction in this kingdom, that it is now impossible to know Whigs and Tories by their names. I have heard opinions from Tories that would have done honour to Whigs, and sentiments from Whigs which would have disgraced Tories.

plexion

plexion of his opinions. He will always side with power. He will praise subordination, claim superiority, demand obedience. He will extend penal laws, tie up juries, restrain opinions, and fetter freedom of conscience.

It is a pity that ideas so prejudicial to liberty should exist in this country. All we can do is to oppose, and, if possible, to overturn them: and this cannot be done better, than by maintaining the natural rights of man. Nor let it be said, that he who maintains these rights is an enemy to the government. It is the boast of our government to protect them, he therefore who admires them most, must be most warmly attached to it.

THE END.

THE
RIGHTS
OF
KINGS.

THE
S. H. T. S.

K. I. N. G. S.

THE
RIGHTS
OF
KINGS.

Τῶν τε πατέρων μὴ χεῖρας κατ' ἀμφοτέρα φανῆναι, οἳ, μετὰ
πόνων καὶ οὐ παρ' ἄλλων δεξάμενοι κατέχον τε καὶ, προσέτι δια-
σώσαντες παρεδосαν ἡμῖν αὐτά,

THUCYD.

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THE
RIGHTS
OF
KINGS,
&c.

THE attention of the world has been engaged for some time past by a work, equally conspicuous for the beauty of its style, and the dignity of its subject. And if erudition and eloquence constitute perfection, that work has attained it. The most splendid productions of genius, however, may be delusive ; they may shine without

solidity, and captivate the taste while they mislead the understanding.

This work sets out in praise of moderation : it condemns a love of change, and recommends a respect for government. So far we listen with reverence. When we come, however, to the motives of this respect ; when we arrive at the reasons upon which it is founded ; when we find that what is ancient is preferred to what is useful, prejudice to truth, and custom to liberty, we see where these principles would lead us ; that they would confirm equally the bad and the good, and must sometimes perpetuate tyranny, as well as maintain freedom.

With such beauty of style, with such energy of sentiment, were these doctrines enforced, that it would have been difficult

to

to have combated them under the first impression of admiration. That admiration may have now subsided, and men may be capable of examining the subject coolly.

And if they do examine coolly, they will see that respect for government ought not to be founded upon prejudice: that prejudice is a blind guide; that it may embrace falsehood as well as truth, and defend a bad government with the same zeal that it would support a good one.

Probably, indeed, with a great deal more. Mankind are fond in proportion as they are foolish. How humbly did they adore the supremacy of Popes, how blindly admire the divinity of kings! equally enamoured of a monarch or a priest, a crown or a tiara!

When we review the history of mankind, the very name of prejudice excites indignation; prejudice has been equally the parent of their follies, and their crimes: it protected idols, sanctified human sacrifices, and enjoined persecution.

But is there no other base upon which to establish government? Is there no other principle by which to maintain it? Is it in vain that God has endowed man with reason, or is it on the noblest of subjects that he is forbidden to exercise it?

And what does reason teach us respecting government?

We can discover no ground upon which one man could originally claim a right to govern

govern another.* In the first stages of society there was neither government to give power, nor wealth to give consequence, nor rank to give honor. Upon what then could a claim to superiority be founded? Upon oppression alone, and oppression drove men to government.

It will be said, perhaps, that this is a fallacious system. It will be asked upon what ground we suppose that all were originally equal, and none entitled to govern?

Upon the ground of justice; because it would have been unjust that any should have been happy at the expence of the rest:

* It may be supposed, indeed, that the world was parcelled out originally by the Author of all things, and a right conferred to govern, but this would be a *divine right*.

Upon

Upon the ground of equity ; because it would have been partial :

Upon the ground of humanity ; because it would have been cruel :

Upon the ground of common sense ; because it would have been absurd.

But if they will not allow this state of pure and natural freedom, let them advance with *divine right*. Let them proclaim, in the face of the world, that some man or men were destined by Providence to govern, and that the rest of mankind are bound to be miserable for their sakes.

We should conclude, from the language of some, that there never had been such a thing as natural freedom : that government was antecedent to liberty, and

and we were obliged to the laws for all we possess. Now laws are comparatively nothing—the revolutions in the world have not happened from the violation of them, but from the invasion of natural freedom.

All then were at first equal ; government was contrived for general happiness, and power delegated for that end. From these premises it results :

1st. That the happiness of the people is the end of government :

2dly. That the forms of government are the means by which that happiness is to be attained.*

* They cannot be the ends, else there would be as many ends of government, as there have been forms of it in the world.

3dly. That all power is a trust.

If the happiness of the people be the end of government, its forms ought to be sacrificed to attain it, else the means are preferred to the end. And if power be a trust, whenever that power is abused, it ought to be recalled.

The people, then, of all countries have an inherent right to form their governments, and to depose and chuse their rulers. They may change the first as often as they are defective, and the last as often as they abuse their power.

Is it not strange that privileges which belong to all mankind should have been refused to the people of England? Is there any reason to make them an exception? But whatever be their claim in theory,
they

they have realized it in practice, and the first instance occurred at the Restoration.

When the people were tired of the Commonwealth, Monk marked their disposition, and commanded the Parliament to dissolve. They dallied. He then requested the secluded members to take their seats. They did the business. They wrote circular letters to the counties and corporations of England, desiring them to chuse Deputies for a Convention, and then dissolved themselves.

As the Convention was summoned without authority, it can only be considered as the people. Nor could the royalists have any other reason for calling it, as they formed a majority in the Long Parliament. They wanted the people to give Charles his title. And when the Houses did meet, they

C

drew

drew up a proclamation, declaring, “that,
“ according to their duty and allegiance,
“ they did heartily, joyfully, and unani-
“ mously, acknowledge, and proclaim,
“ that immediately upon the decease of
“ King Charles, the imperial crown of
“ these realms did, by inherent birth-
“ right, and lawful and undoubted suc-
“ cession, descend, and come to his most
“ excellent Majesty Charles the Second,
“ as being lineally, justly, and lawfully,
“ next heir of the blood royal of this
“ realm; and thereunto they most hum-
“ bly and faithfully did submit, and
“ oblige themselves, their heirs, and
“ posterity for ever.*

The

*It will be said, perhaps, that the people in this instance only acknowledged a right. No matter what they did, they *did*, and they would not have been called upon to *do*, if they had been judged

The next instance was the Revolution,

The tyranny of James II. was become intolerable to his subjects. At this crisis the Prince of Orange landed in England, with the design to procure them relief. When James saw the storm approaching, he was seized with a panic. On the night of the 12th of December, 1688, he threw the great seal into the river, sent the Queen to France, and fled from London.

There was now no government: no trace of a legislature remained. The King was fled, and Parliament had been dis-

judged of no authority. And here it may be observed, that every word of this proclamation would apply to the Pretender if he existed, and sanction his claim to the crown. What could oppose it but a subsequent act of the people?

solved some time before. The populace rose and committed some outrages. The Peers and Bishops who happened to be in London then interposed to save the nation. They directed the Mayor and Aldermen to keep the peace of the city ; they issued orders to the fleet, army, and garrisons, and they invited the Prince of Orange to London.

When the Prince arrived none knew what he was to do. The lawyers advised him to claim the crown by conquest, assume the title of Sovereign, and call a Parliament to ratify the act. This measure was rejected as violent. The Peers and Bishops then addressed him, praying him to assume the management of affairs for the present, and to summon a Convention by circular letters. Still William was averse to act.

An

An expedient was then devised. Such persons as had sat in any Parliament of Charles II. (for the Parliaments of that reign were the last that had been elected freely) were invited to meet, and fifty of the common council of the city of London were added to them. This body voted the same address with the Peers and Bishops. William then agreed to act, and in consequence wrote circular letters to the counties and corporations of England, requesting them to chuse Deputies for a Convention.

Similar measures were pursued respecting Scotland. There were in London about thirty Peers, and eighty Gentlemen of that country. William called them together, and asked their advice. They prayed him to assume the administration for the present, as the Peers and Bishops had

had done. He consented, and summoned a Convention in Scotland.

The English Convention met shortly after. They came to a vote, “ That
“ King James II. having endeavoured to
“ subvert the constitution of the kingdom,
“ by breaking the original contract be-
“ tween King and People; and having,
“ by the advice of jesuits, and other
“ wicked persons, violated the fundamen-
“ tal laws, and withdrawn himself out
“ of the kingdom, has abdicated the go-
“ vernment, and that the throne is
“ thereby vacant.” They then settled
the crown upon the Prince and Princess
of Orange; the sole administration to be
in the Prince, and annexed to the Settle-
ment a Declaration of Rights, in which the
liberties of the subject were clearly speci-
fied and defined,

The

The Scotch Convention copied their example, with the exception only, that they voted James had forfeited.

Such are the events that happened at the Revolution—let us now reason from them.

The first observation we make is, that all government ceased upon the departure of James. The Parliament consists of King, Lords, and Commons. The King was gone,* and the Houses were no more. †

* James had not abdicated. The term was only used in the excluding vote to cover the deposition. He wanted to reign, but they would not let him; that was the fact.

† There cannot be the least doubt that government was dissolved.—See the opinion of Hume on the subject: “By this temporary dissolution of government—
“vern-

When government ceased, it dissolved into that from which it sprung, viz. the People. What else could act when government was at an end? What else did act? The Prince of Orange was nothing in England. The Peers and Bishops had no authority when they were not sitting in Parliament. Those who had been members in the time of Charles II. were so no longer. The Mayor, Aldermen, and Common Council, had no legislative power, and the Scotch nobility and gentry were as destitute of authority as the rest.

If we could hesitate to pronounce these persons the People, the mode in which

“ government the populace were now masters ; and
“ there was no disorder which, during their pre-
“ sent ferment, might not be dreaded from them.”
vol. viii. p. 292.

they

they acted would suffice to determine us. They proceeded with the utmost caution. When they prayed William to accept, they prayed him only for the present, the Convention were to determine the rest. Can there be a stronger evidence that they believed themselves the people? and does not the correspondence of the nations in their conduct quicken, if possible, the energy of the proof?

And if the persons who summoned the Convention were the people, the Convention itself could be no more. What then did they do? They deposed James because he had endeavoured “*to subvert the constitution of the kingdom, by breaking the original contract between King and People, and violated the fundamental laws.*” Their proceedings deserve notice.

D

The

The object of James II. was to establish popery in the British dominions : to this purpose he directed his efforts. He endeavoured to fill the offices of the State with papists, who were destined to promote his designs; and aid him in effecting the proposed Revolution,

In the attempt he met difficulties. The laws which excluded Roman Catholics from employment, threatened opposition. These obstacles, however, were only apparent. A dispensing power was a part of the prerogative, acknowledged by the statutes of the kingdom, and declared so paramount, that the legislature itself could not overcome it.*

Let

* A remarkable instance of this is related in Hume. " In the twenty-third of Henry the Sixth, a law of this kind (to restrict the power
" of

Let us now recal the most flagrant acts of James's administration. He revived the Court of High Commission ; he impri-

“ of the Crown) was enacted, prohibiting any
“ man to serve in a county as sheriff, above a
“ year ; and a clause was inserted, by which the
“ king was disabled from granting a dispensation.
“ Plain reason might have taught that this law
“ at least should have been exempted from the
“ king's prerogative : but as the dispensing power
“ still prevailed in other cases, it was soon able,
“ aided by the servility of the courts of judicature,
“ even to overpower this statute, which the legis-
“ lature had evidently intended to secure against
“ all violations. In the reign of Henry the
“ Seventh, the case was brought to a trial, before
“ all the judges in the Exchequer chamber ; and
“ it was decreed, that notwithstanding the strict
“ clause abovementioned, the king might dispense
“ with the statute. He could, first it was al-
“ ledged, dispense with the prohibitory clause,
“ and then with the statute itself.” Hume's
History of England, vol. viii. p. 238. Edit. of
1767.—It will be said, that this decision was owing
to the servility of the judges—Granted. We are

imprisoned the bishops who refused to appoint the indulgences to the papists to be read in churches ; he attempted to force the fellows of Magdalen College to elect a papist for their president ; and he suspended the laws against Roman Catholics. But these acts were all justified by his dispensing power. He might suspend the law which abolished the Court of High Commission, he might try the bishops by that Court, and he might dispense with the penal laws. These acts were certainly injurious to the people, and therefore they deposed him. But this only

only contending that the dispensing power was law, this would make it more. But even the Convention acknowledged the dispensing power in the very ardor of liberty, in the *Declaration of Rights*. They only condemned it so far "*as it had been assumed and exercised of late*"—that is, they did not like it—Will it be said, that James broke the laws now ?

only

proves, that they were above the laws of the land, and acted upon those of nature.

The next observation we make is, that they chose the Prince of Orange. It was a choice, because the Prince of Wales was next heir, his legitimacy had been established,* and William had no title to the crown.

* As appears by the following extract from Hume :—" The report that a supposititious child
" was to be imposed upon the nation, had been
" widely spread, and greedily received, before the
" birth of the Prince of Wales; but the King
" who, without seeming to take notice of the
" matter, might easily have quashed that ridiculous
" rumour, had, from an ill-timed haughtiness, totally neglected it. He disdained, he
" said, to satisfy those who could believe him capable of so base and villainous an action. Finding, however, that the calumny gained ground,
" and had made deep impression on his subjects,
" he was now obliged to submit to the mortifying
" task

crown. He had so little that the lawyers advised him to claim by conquest, that is, as an usurper. But supposing he had enjoyed the best of titles previous to the Revolution, to adopt him in the present moment must have been a choice. Were not the people free to act as they pleased? What power bound them?*

The

“ task of ascertaining the reality of the birth.
 “ Though no particular attention had been paid
 “ before-hand to ensure proof, the evidence of
 “ both the *Queen's pregnancy, and delivery, were*
 “ *rendered indisputable*; and so much the more, as
 “ no argument or proof of any importance, no-
 “ thing but popular rumour and surmise could
 “ be thrown into the opposite scale.” See vol.
 viii. p. 291. And the people themselves believed
 the legitimacy, as we find.—“ But when the
 “ Prince of Wales was born, both the Prince (of
 “ Orange) and the English nation were reduced
 “ to despair, and saw no resource but in a confe-
 “ deracy for their mutual interests. And thus the
 “ event, which the King had long made the ob-
 “ ject of his most ardent prayers, and from which
 “ he

The last feature in this business is, that they formed a government ; they defined privilege, they described prerogative ; they declared the rights of the subject, and made their preservation the condition of allegiance.

It is then manifest that the people of England deposed and chose their rulers, and formed a government at the Revolution. It is also manifest, that the laws of

“ he expected the firm establishment of his
“ throne, proved the immediate cause of his ruin
“ and downfall.” Vol. viii. p. 273.

* What else could it be than a choice, since the old line of succession was ended. “ Thus ended
“ at once, by this sudden and unexpected vacancy
“ of the throne, the old line of succession ; which,
“ from the conquest, had lasted six hundred years,
“ and from the union of the heptarchy in King
“ Egbert, almost nine hundred.”—See Black,
Com. vol. i. p. 210.

nature regulated their conduct through the whole transaction.

Mr. Hume defends the Stuarts upon this ground, that the odium excited by their administration was owing to the change of ideas respecting liberty, and not to their usurping new prerogatives. They exercised the old ones, however, in such a way, as to extinguish freedom. The ship-money of Charles would have annihilated property, and the dispensation of James subverted the religion of the kingdom.

But though the vindication of Mr. Hume does not justify the Stuarts, it establishes the principle we are now proving. It demonstrates that liberty is the criterion of government, and that the people will have it on any terms.

And

And if our ancestors acted upon the laws of nature, they could not prevent others from copying their example : they could not refuse a licence which they took themselves, nor limit nature by Acts of Parliament. Why then shall we quote those of the Revolution ? Destitute of foundation, they must either disclaim authority ; or the ground upon which they stand must be open for ever.

And if it be idle to produce these acts at all, it is doubly so to argue from their expressions. The Whigs were obliged to humour the Tories, * and they worded their acts to please them. This is the reason that they talk of “ *ancestors*,” after they had expelled ancestors ; this is the reason that they “ *submitted their pos-*

* See Hume, vol. viii. p. 304.

“ *terities,*”* after they had refused to be submitted themselves. And so to submit their posterity was asserting *divine right*, for Heaven itself could do no more. Upon the same principle they might have sold us for slaves. But it will be said, they had no right to do that. The question then returns to the ground of justice; and whoever construes these acts by any other rule, makes liberty an estate, our ancestors the donors, and the laws they passed the conditions of inheritance.†

But is it not indecent even to name these expressions? Is it not arguing in the very teeth of our present establishment? Did

* Expressions in the Acts of those times.

† However the Whigs may have been biaſſed by the Tories at the Revolution, some of these words are forms, and must be used upon such occasions.

not the Convention that received Charles the Second *submit themselves, their heirs, and posterities for ever*, and yet we know best if we are governed by his descendants ?

In considering these rights, it is chusing that is always objected to. As the English monarchy is hereditary, it is supposed by many, that the choice of the people interferes with the order of succession. But is this really the case ? When we say that the people are to chuse their rulers, do we mean that they are to chuse their kings at the end of every reign ? Certainly not. We mean that they chose originally, have chosen often, and may chuse again : that they chuse in emergencies — that when the public happiness renders it necessary to depose a king, they are entitled to chuse his successor ;

and whoever denies this right, must deny the title of his present Majesty; for all the reasoning in the world will never prove that after James was dethroned, the Prince of Wales was not the next heir to the crown.

Indeed to dispute the choice of the people, and to support Jacobite principles, is the same thing. Those who deny that choice, maintain divine right, though they do not mean it. We must recollect that there is no law for deposing a king—no statute authorizing a subject to take arms against his sovereign. When human laws, then, are at an end, must not he that claims, claim by divine?

But are laws at an end? Is government dissolved by deposition? This is the great question, and it shall be discussed fairly.

We

We have seen that there is no written law for deposing a king. Some, however, may think that there is an institute of nature, similar in operation, paramount in effect, but not extending to dissolve government. There can be no such law. The law that deposes a king, returns power to the people; not by command, but by consequence. If a sovereign of this country should so abuse his trust, as to render resistance necessary, the parliament must either side with the king, or with the people. If with the king, they become partners in the abuse; if with the people, part of themselves. In either case the whole power is resumed. Now this is the main point: if power reverts to the people, it can be subject to no limitations, no laws imposed when they last possessed it. This would be asserting that

that one parliament could bind another; it would be constituting an equal superior. They are then omnipotent; they possess the whole legislative, judicial, and executive power; they can repeal, annul, abrogate*—But what right—let us not confound our ideas; we are thinking of government, and the right of that is the power of the people when they last possessed it.

But what is our difficulty? Is it to believe that deposition is the act of the people; or that, when it happens, power returns to them? Will any one shew a law for deposing a king? Will any one produce a statute for taking arms against

* There can be no doubt of this; all laws that then exist, exist by sufferance.

the sovereign ?* Is not the whole system of our present government the work of the Convention ?

Let us put a case : If James had invaded the kingdom before the Convention met—could the people have resisted him ? If they could, it is absurd to talk of laws, for James was then their lawful sovereign. If they could not, the Act of Settlement is greater than those who made it : for we resisted the descendants of the same James in 1715 and 1745 upon that act ; and that act was the work of William and the Convention ; and William and the Convention were the people.

But why should we reason about what they would have done ? we know what

* They may, indeed, make war upon him in his own name like the Long Parliament.

they

they did. Did not they laugh at laws? Did not they set them at defiance? Why did not they take the son of James, after his father was deposed, (our then lawful, and still lawful sovereign, if the people have no right) educate him in the principles of the Protestant faith, and set him upon the throne? * Why did not they? They did not chuse it.

Is it possible after this to deny the sovereignty of the people? Is it rational to dispute their right? Can there be the shadow of a doubt that their wishes are authority, their will law, and their actions government?

It is a notion with many that papists can alone be deposed; and that when they

* The Prince of Wales was then only a twelve-month old.

are deposed, it must be done under the Act of Settlement ; hence they conclude that the crown devolves upon the next heir. The contrary is the case. All depositions happen under the law of nature—Liberty is the real test. If the catholic religion should become popular by a sudden change, a papist might govern unmolested ; but if tyranny should break out in a new shape, the people would overturn the government.

But let us pursue laws—The Long Parliament were resolved to have law, and therefore they made war upon the king in his own name. The Revolution lawyers were resolved to have law, and therefore they counselled the Prince of Orange to make himself king, and then call a Parliament to appoint him. The Convention of 1688 were resolved to have law, and

F

there-

therefore they first crowned William, and then made him give them authority to do it. Is it not absurd then to mention laws in such cases? Is it not ridiculous to oppose *hereditary succession* to the choice of the people? *

When the prospect of issue from William disappeared, the crown was settled upon the descendants of James I. through

* Hereditary succession is a form not an original principle of government. There is a great difference here. We can easily conceive the good of the people to be a principle, because it applies equally to all forms, and all are concerned in it; but we cannot imagine how men should be interested in the circumstance of a king succeeding his kindred, more than as it contributes to their happiness. For instance, if the people would always prefer merit, and never fight about the election of their kings, elective monarchies would be the best, and *hereditary succession* would be forgot. The *salus populi* however, or public good, would remain.

the

the Princess Sophia of Brunswick. Hence some infer, that the right of such persons, existed antecedent to the statute. It could not be : power had reverted to the people upon the deposition of James II. ; and if the posterity of James I. were heirs already, it was needless to appoint them. As persons whom we once had known, they might hope a preference, and they obtained it. But what does that say ? Does a predilection in us prove a right in them, or an act of grace infer necessity ?

The last objection relates to the heirs themselves—they are pitied as suffering for the faults of others. It might be said, that if they had succeeded, they would have owed their crown to the merit of their ancestors, and they may forfeit as they would have acquired—That in all cases forfeiture extends to heirs—That if

this holds in matters of property, much more ought it in those of trust, where forfeiture is connected with the crime, and the thing forfeited is the thing abused—That if penalties are to be measured by the injury which the public suffers, they ought to be enormous here—But these are personal considerations, and touch not the real ground. The base of the argument is, that government is dissolved, that power has returned to the people, and that it exists for no one else.

It would appear that these rights have been denied for the purpose of condemning a late Revolution. Certain it is, that if they do not exist, every step which the French have taken is unjustifiable. If freedom must yield to custom, it was wrong to change ; and if the people cannot alter their government, they were wicked

wicked in attempting a Revolution. But all this is absurd. The question then is, whether change was necessary.

The old government of France was a corruption of the feudal system. The king was supreme lord, and the nobles were his vassals. Subject themselves to the authority of the crown, they were in turn absolute over the people.* They supported the monarch as their patron, and he protected them as the props of his power.

The consequences of this system were fatal to the liberty of the nation. The crown grew arbitrary, and the nobles tyrannical. Too proud to engage in the concerns of commerce, they fought the

* By means of the *droits*, or territorial rights, attached to their domains.

church and the army. There the monarch aggrandized them : he gave them all the offices of the State—power, emolument, and trust centered in their hands.

In such a situation of things, what could become of the people ? Void of influence, stripped of rights, and destitute of protection, they were oppressed and despised—they sunk into nothing.

Will it then be affirmed, that change was unnecessary ? Will it be pretended that the people should have submitted for ever, and resigned themselves tamely to slavery ?

But it may be said, that the French went too great lengths, that they might have reformed their government without abolishing it. The remark might have
some

some appearance of justice, if the defects of their government had been curable. But this was not the case; abuse was universal: the whole body was infected; every limb required regeneration.

But granting that a reform was possible, would the people have been allowed to accomplish it? The nobility and clergy possessed all the influence of the State, they were inseparably attached to the crown, and the crown was rendered more formidable still by a hereditary revenue of five millions sterling—How was it possible to overcome such a force? How was it practicable to effect a reform to which such a power was adverse?

What then are the objections? The populace were guilty of excess—And are we to expect a revolution without it? The ques-

question is not whether excess was good, but whether it was worse than the evils of slavery.

But their system is defective; many things might be mended. Let us contemplate our own government for a moment: if we count the years which its formation has cost, and reckon its faults, we shall, perhaps, abate in our demands of perfection.

To object to the French Revolution, then, is both foolish and cruel;—foolish, because they were justified in what they did; and cruel, because they abolished tyranny.

And the right which they exercised, belongs to all mankind. They have a constant, unalienable right, to form their govern-

governments, and to depose and chuse their rulers. Public good is the supreme law*—all considerations must yield to it.

And thence the absurdity of supposing an *original contract*. If we mean any thing by a contract, it is that, while one party abides, the other is bound by it. Now is this our sense of government? If the king of any country should possess too much power by its constitution, could not the people diminish it? Could the king urge that he had never broken his contract, and could not, therefore, lose any of his power? Could he oppose this language to the unanimous voice of the people? If he could not, there

* *Salus populi suprema lex.*

is no contract, no bargain — the idea is ridiculous.*

And the expression sprung from the Revolution. As our ancestors then used it, the lovers of liberty think that they talk orthodoxly when they follow their example. But it is really not so. If such a contract existed, no reform could take place, however necessary for the public good, however agreeable to the wishes of the people. Our rulers could always plead their contract. It was certainly intended that power should not be abused, and *original contract* may signify that

* And Blackstone was of the same opinion: "For, whenever a question arises between the society at large, and any magistrate vested with powers originally delegated by that society, it must be decided by the voice of the society itself: there is not on earth any other tribunal to resort to."—See Com. vol. i. p. 211.

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intention ; if aught else, it is nonsense : and in the former sense our ancestors must have understood it, for James had violated no engagements. He was certainly a tyrant, and therefore deposed ; but *original contract* meant nothing farther.

It might be contended, that the people have a right to change their government, even if they are happy. What can hinder them, if unanimous ? This right is, however, abstract ; not because imaginary, but because it is improbable that an opportunity should offer of exercising it.

Necessity has generally been considered as the rule of resistance. When the misery of individuals becomes intolerable, it is presumed, that they may oppose their

governors.* But how is it possible to lay down rules upon such a subject? As well might we make laws for the elements, or assign bounds to the ocean.

On such occasions the people must be left to their own feelings; nor have we any thing to apprehend from them. The multitude are naturally submissive, and the proof is, that they have borne so much oppression from their rulers.†

And yet to hear some men talk, we should suppose that the people breathed nothing but sedition; that they had nei-

* Upon this principle Mr. Hampden resisted the officers sent by Charles to levy the ship-money.

† Witness their patience under the Neros, the Caligulas, the Caracallas, and all the other monsters that have disgraced humanity.

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ther sense nor moderation; that they were abandoned, like savages, to the dominion of the most furious passions, and that we must blind before we could tame them.

I wish the fault may not lie the other way: I wish they may not be too easy. It was the seventeenth century before they gave up *divine right*; before they could be persuaded that one man is not entitled to make millions miserable.

But that delusion is now past—our worst errors are now over. And as the first step to virtue is to leave vice, so the first sign of wisdom is to desert folly.—But I hope we shall not stop here—I hope we shall improve daily—I hope the time will come, when reason shall see, and sentiment shall feel, and unanimity shall
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proclaim, that public good is the end of
society, public happiness the bond of
government !

THE END.

VIRTUE TRIUMPHANT:

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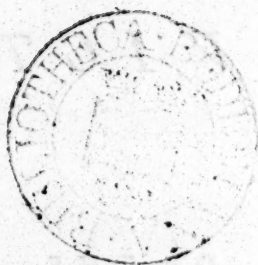
PLANTERS IN PARLIAMENT.

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THE TRIUMPHANT



IN PARLIAMENT

J. D. D. D.

PRINTED BY J. D. D. D.

1844

WHEN this little Effay appeared, the Abolition of the Slave Trade had been newly agitated in Parliament, and overruled by a considerable Majority,

1. The first question is whether
the system has been really
improved by the introduction of

VIRTUE TRIUMPHANT.

NO man who has the least love for his country, can see the absurdities of his fellow citizens without indignation. And surely nothing could be a greater one than our late idea of abolishing the Slave Trade—a trade which, if ever any was, is supported by every sentiment of liberality, humanity, and justice. And it is the more provoking to see such follies, when mankind are arrived at maturity, and one would have expected that they laid aside the vanities of childhood.

How

How such an idea could have sprung up in the mind of any, we cannot imagine. For who were made slaves? Was it not the Africans? And who were the Africans? The children of Cain, who murdered his brother Abel, and who were accursed from the beginning of time, for the transgression of their ancestor. Now this argument is unanswerable; for there is not the least doubt that they came down in a right line from Cain, as may be proved by various pedigrees in the possession of the African Princes; and if they are really his children, they ought to suffer for his fault.—Would not any of us think it exceedingly just, to be punished for a crime that our forefathers committed four thousand years ago? How can any one object to this? Is there a shadow of ground to oppose it? Besides, are not the Africans all negroes? And are not
negroes

negroes black men?—Who ever heard of a white negro, or of a white man being made a slave? If white men had been made slaves, it would have been another thing—There are, to be sure, some whites in Africa, but it is not the same white that we are of, and, besides, they were never made slaves.

Is it not clear then that the negroes, as being the posterity of Cain, are accursed and damned? Have we not the authority of scripture for that? besides, are they not all black; called negroes from their very colour? How then can they be entitled to the same rights with us? If they were to mix with us to all eternity, they would never be the same. As a great author says, all the waters of the ocean will not wash the Ethiopian white.—They are guilty souls—their hearts are as black as their faces.

What

What title then have they to complain? They ought to be punished with double stripes, for so doing. It is not only our right, but our duty to enslave them, both upon the footing of religion, and justice.

But we have not done with this ground yet, it is too good to leave so soon.—Can any one deny that they are descended from Cain; and if they are, should not they be punished for the crime that he committed? Good God, to murder his own brother, and his guilt always accumulating upon his posterity, like compound interest! What a bundle of sin they must now have to answer for! And then their colour—black men—that is the strong point: they are not entitled to the rights of humanity; as I said before, they should be punished with double stripes, for pretending to them, but
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we have good reason to believe that it is not their fault.

No, it is some wicked spirits here, that are at the bottom of all this mischief, and they will never rest till they have ruined the country. It is the same detestable race that expelled our good and lawful King James the Second, and opposed his divine right to the throne of England. He was the Lord's anointed, anointed with holy oil, and his right could never be taken from him—Never, never.—He had a right to do what he pleased; for it is as clear as day, and no one will ever prove the contrary, that kings may use their subjects as they will; they are God's vicegerents, their subjects were created on purpose for them, and they may make them miserable, for they may do what they please with their

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own. And are not their subjects their own? Are not men the property of kings, as much as the cattle, and the beasts of the field?—Therefore, what have they to say? And it is the greatest audacity in them to say any thing. James knew this, and therefore he told his subjects, that he would do with them what he pleased—God bless his memory.—He knew what kings were entitled to; he thought all mankind were made for him;—but he was dethroned by a parcel of ungrateful rebels, who were insensible of the benefits they derived from him. And it would have been happy for the country, if they had stopped here; but they began again upon the American war: they abetted our colonies in their presumption—For what did they want? They wanted to be put upon the same footing with us. Was there ever any
thing

thing so unreasonable? Should we have asked the same of them? No: and they were the more inexcusable, that they were our own flesh and blood, and, therefore, making such a demand, was rebelling against their parents. And now these firebrands are standing up for the negroes. One may well say that they are a black set, and a black cause. They certainly never will rest till they have ruined the country. And what is their pretence for all this? The rights of men. Now in the first place, men have no rights at all; and if they had, the negroes would have no title to them.

For what are these rights? A right to be equal, and to be free, and to be God knows what; for there is no end of their madness. But men, say they, were originally

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nally equal. It is really impossible to commands one's temper—Were not all the nations of the earth tied down to one man and his posterity for ever? Was there never such a thing as *divine right*?

But it is below us to reason with such ninies. If there were such rights, what title have the negroes to them? Are they not as black as coals? And it is all their own fault, for they might have been white long ago, if they had pleased.

And the boobies object to our way of getting them—Now how do we get them? By the right of occupancy, which all authors allow to be the best title to property. We seize them upon the coast, put them aboard a ship, and when they are there, they are ours by all laws divine
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and human. Who ever asserts the contrary, is an enemy to his country, and a friend to the French king. Another way is by the courts of law—It is the custom in Negroland, to sell all for slaves who are guilty of witchcraft. Our traders then accuse whom they please, and find a bill against them, like our grand juries. Upon this, the wretches are tried, (which is more than they deserve) and when they are condemned, which they always are, and that shews their guilt, they are sold to us. A third way is by war: the laws of Africa make all slaves who are taken captives. This is an old custom, as we find by Andromache's speech in Homer:—
Now what do we do? We stir up as many wars as we can, in order to relieve the Africans from the misery which they suffer in their own country, and that makes more captives,

captives, and the captives make more slaves. It is plain then, that we either get negroes by the law of nature, or the law of the country, or the *jus gentium*.

And when once they are slaves, they are much happier than they were before. As soon as they are put aboard a ship, they are pinnioned down to the ground to prevent their escape. For these negroes, and this shews how little they are entitled to mercy, are sorry to leave their native country, (for they are as obstinate as mules,) and what they call their friends and relations—as if such wretches could have either friends or relations, or as if they could be sorry to leave such a place, if they had common sense. But sorry they are, (one can hardly speak of them without indignation,) and so sorry, that they make terrible howlings, which

which disturb the captains, as it must do all sensible men to see human nature so depraved; and this gives reason to believe, that if the ships did not sail in the night, which prevents the negroes from seeing their native country, they would grow desperate, and God knows what they might do—They might kill a white man in their fury, and all Africa could never make amends for that. Then as to stowage; they are put together in the most comfortable manner—they are crowded so close, that they cannot stir. This must certainly be the most convenient way for all parties; the harder you pack china, the less liable it is to breakage, and the rule must apply doubly to living creatures, which the negroes certainly are. Besides, being laid so close, promotes perspiration, and restrains respiration; that is, makes them sweat

sweat a great deal, and breath very little, which are excellent things for carrying off the fever, occasioned by their senseless despair at leaving their native land.—Some die, to be sure, but that cannot be ascribed to the captains, for, as they kill the slaves for their interest, why should they not keep them alive from the same motives?—Away then goes the ship with her cargo, three deep above one another, and God bless all such ships, I say.

And when they land in the plantations, what is done with them? They are turned out to work, and pretty lively work it is, for though we are against the negroes as all men of sense must be, we know very well what's what—They have a good deal to do, and it is in the heat of the sun, and they are flogged heartily, unless they do

do it.—But then it must be remembered, that they are their master's property, and he may make them do what he pleases, even if it should kill them. This point has been determined by a court of law, for a man did flog his slave to death, and was tried for it (which was a reproach to justice) and acquitted upon this principle. And, again, if the sun is hot, they are accustomed to it, for every one knows that half an hour of the work they do all day long, would kill any European. By the same rule when they are flogged, they don't feel it—They drop down dead now and then, but that's nothing—One swallow does not make a summer. And here I would propose an improvement upon the Slave Trade. I am credibly informed, that some who have been sent out to the plantations, to superintend the negroes, have

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returned

returned thither, because it hurt their feelings to see the way they were treated. Now, I think, all such should be well flogged, and sent back again, it would teach them better feelings. Indeed, if there is any fault to find, the negroes are treated too gently. When we consider the guilt of Cain, aggravated by their colour, we, in some measure, commit a crime against God's ordinances, if we render their situation better than it is in their own country. For he certainly condemned them, if we will only refer to scripture. And that their situation is better than in Africa, every man must see. When they were taken in war, they were either roasted or boiled. It has been said, indeed, that the Africans make more captives than they they could eat, to sell us; but this is not true; you may depend upon it, all we did
not

not buy, would be devoured, and therefore we are more humane than the Africans, who are cannibals.

But the short answer upon the subject is, it is our interest to continue the trade. I lay down as a principle, that a man has a right to do every thing for which he will not be hanged. The pale of the law, is the line of justice. If it is not, What's the use of laws? Does not every man pursue his interest among ourselves, without any regard to his neighbour?—Everybody would own it, if they would speak out—How then can the negroes complain, if we use them as well as ourselves? —and so much the more that they are black, for we ought never to lose sight of that—That is the strong ground—Much stronger than their being Cain's children—But
com-

complain—How can any man?—let us only lay our hands upon our hearts, and ask if we should not wish the Africans to treat us, as we treat them.

But interest is the most convincing argument, and that is most undoubtedly against them. For what has been said—That we need not import more slaves from Africa, if we would only breed from what we have. Now these diabolical defenders of the rights of men, and a more damnable set never disgraced any country, have demonstrated this by their calculations, and they plume themselves extremely upon it. But don't they know the contrary in their hearts? Don't they know that every Inn-keeper kills his post horses in three years; buys new ones, and thinks it his interest so to do? But granting that it was our
interest

interest to breed, it would take too much trouble; and damn the negroes, say I.

But some of your defenders of the rights of men, are a great deal worse than the rest: They ought really not to be suffered in a free country: They have the impudence to maintain, that we ought to abolish the Slave Trade, even if it was against our interest. Good God, to hurt ourselves! To cut up our trade by the very roots! And for what? A set of blacks—a parcel of wretches that have been doomed to destruction from the earliest time—No—the more we oppress them the better.

When we consider what these blacks are, how they are got, how treated, and what they do, that they cultivate our lands, form the strength of our plantations, and
consume

consume our stinking fish from Newfoundland, whoever would abolish the trade, as I said before, must be an enemy to his country, and a friend to the French king.

It is a melancholy reflection, that in this enlightened age, these men should have found any to support them; that they should have got eighty-eight members in the House of Commons, to abet them in their machinations—They are the great criminals they have shewn the country, that they neither respect things human nor divine.

But we will remember them—We will reward them at the next election—Out they go, without mercy, and what's more, we'll never elect them again.

THE END.

